

21 C.J.S. Courts § 177

Corpus Juris Secundum | May 2023 Update

Courts

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V. Rules of Practice and Procedure

B. Operation and Effect of Court Rules

§ 177. Record and evidence of court rules

[Topic Summary](#) | [References](#) | [Correlation Table](#)

West's Key Number Digest

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A local trial court rule is not effective if it is not on file with the clerk of the state supreme court.

A local trial court rule is not effective if it is not on file with the clerk of the state supreme court.¹ The records of the court are the only competent evidence of the existence of a rule of court² and cannot be shown by affidavit.³ The existence of a rule of court will not be presumed.⁴

The nonexistence of a particular rule must be proved by the testimony of the clerk of the court,⁵ and an affidavit of counsel that there is no rule relating to a particular matter does not establish the nonexistence of that rule.⁶

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Footnotes

¹ Kan.— [State v. McGraw](#), 19 Kan. App. 2d 1001, 879 P.2d 1147 (1994).

"Information Sheets" not enforceable rulesf

To the extent that "Information Sheets" of various parts of the supreme court were viewed or enforced as "rules," they were not in compliance with court rules since they were not filed with the chief administrator of courts.

N.Y.—*Hochberg v. Davis*, 171 A.D.2d 192, 575 N.Y.S.2d 311 (1st Dep't 1991).

2 W. Va.—*Smith v. Wallace*, 116 W. Va. 546, 182 S.E. 538 (1935).

3 Ill.—*Calbreath v. Beckwith*, 260 Ill. App. 7, 1930 WL 3291 (4th Dist. 1930), cert. denied.

4 Mont.—*State ex rel. Eden v. Schneider*, 102 Mont. 286, 57 P.2d 783 (1936).

5 Ill.—*Hughes v. Humphreys*, 102 Ill. App. 194, 1902 WL 1903 (1st Dist. 1902).

6 Ill.—*Hughes v. Humphreys*, 102 Ill. App. 194, 1902 WL 1903 (1st Dist. 1902).

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